



**DEPARTMENT OF EDUCATION**

**[Docket ID ED-2021-OIG-0056]**

**Privacy Act of 1974; System of Records**

**AGENCY:** Office of Inspector General, U.S. Department of Education.

**ACTION:** Notice of a Modified System of Records and Rescindment of a System of Records Notice.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (Privacy Act), the U.S. Department of Education (Department) publishes this notice of a modified system of records entitled the "Investigative Files of the Inspector General" (18-10-01) and rescindment of the system of records notice entitled "Hotline Complaint Files of the Inspector General" (18-10-04). The Investigative Files of the Inspector General system of records provides essential support for investigative activities of the Office of Inspector General (OIG) relating to the Department's programs and operations, enabling the OIG to secure and maintain the necessary information and to coordinate with other law enforcement agencies as appropriate.

**DATES:** Submit your comments on this modified system of records notice and rescindment of a system of records notice on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

This modified system of records will become applicable upon publication in the *Federal Register* on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the system of records notice needs to be changed as a result of public comment. Proposed modified routine uses (1), (3), (4), (5), (6), (9), (14), and (15) and proposed new routine uses (16), (17), (18), (19), and (20) in the paragraph entitled "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES" will become applicable on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any changes to the modified system of records notice that result from public comment.

The rescinded system of records will become applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless it needs to be changed as a result of public comment. The Department will publish any changes to the rescinded system of records notice that result from public comment.

**ADDRESSES:** Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies,

please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the "FAQ" link.

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about this modified system of records notice or this rescindment of a system of records notice, address them to: Howard Sorensen, Assistant Counsel to the Inspector General, Office of Inspector General, U.S. Department of Education, 400 Maryland Avenue SW, room 8161, PCP Building, Washington, DC 20202-1510.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the

comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

**FOR FURTHER INFORMATION CONTACT:** Howard Sorensen, Assistant Counsel to the Inspector General, 400 Maryland Avenue, SW, PCP Building, room 8166, Washington, DC 20202-1510. Telephone: (202) 245-7072.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** The Department is rescinding the Hotline Complaint Files of the Inspector General system of records notice in order to consolidate the records that were previously maintained in that system with the Investigative Files of the Inspector General system of records.

The main reason the Department has modified the Investigative Files of the Inspector General system of records is to add a routine use entitled "Whistleblower Reprisal Disclosure" in order to expand the circumstances in which the OIG may disclose records to fulfil the whistleblower reprisal investigation reporting requirements of 41 U.S.C. 4712(b)(1). This routine use will allow the OIG to non-consensually disclose records to a public or private entity that employs or employed a complainant and

that, at the time of the alleged reprisal, is a contractor, subcontractor, grantee, or subgrantee of the Department.

Additionally, the Department modified this system of records to reflect the inclusion of the records previously covered by the system of records notice entitled "Hotline Complaint Files of the Inspector General," which is being rescinded by this notice.

The Department modified the section entitled "SECURITY CLASSIFICATION" from "none" to "unclassified" to comply with the requirements of Office of Management and Budget (OMB) Circular A-108 entitled "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act."

The Department modified the section entitled "SYSTEM LOCATION" to reflect the current name and location of the OIG in Potomac Center Plaza, and the data center and alternate site where records are maintained. The section entitled "SYSTEM MANAGER(S)" has also been updated to reflect the current location of the Office of Inspector General in Potomac Center Plaza.

The section entitled "PURPOSE(S) OF THE SYSTEM" has been updated to include the purposes for maintaining the records previously maintained in the Hotline Complaint Files of the Inspector General system of records. These purposes included maintaining records of complaints and allegations, documenting the outcome of the disposition of

those complaints and allegations, and maintaining records for the purpose of reporting to entities responsible for oversight of Federal funds. This section also has been updated to reflect the entity to which the Inspectors General must report their activities as the Council of Inspectors General for Integrity and Efficiency (CIGIE). Finally, this section has been updated to include conducting activities to prevent and detect fraud and abuse in programs and operations of the Department, such as fraud awareness and detection training, as a purpose for the records maintained in the system.

The section entitled "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM" has been updated to include complainants as a category of individuals covered by the system. This section has also been updated to explain that complainants, witnesses, and subjects include individuals who are sources of information or have made complaints to the OIG Hotline, individuals who allegedly have knowledge regarding wrongdoing affecting the programs and operations of the Department, and individuals about whom complaints and allegations have been made.

The section entitled "CATEGORIES OF RECORDS IN THE SYSTEM" has been updated to include hotline complaint files as a category of records in the system and to explain that the information contained in investigation and hotline complaint files will include, among other things, evidence

obtained by subpoena, search warrant, or other process. This section has also been updated to include additional information about the specific data elements that may be maintained in hotline complaint files. The section has also been updated to include records needed to calculate and report statistical information on investigation efforts and manage property resources used in investigation activities.

The section entitled "RECORD SOURCE CATEGORIES" has been updated to include the sources of records from which a complaint may be received. This section has also been updated to include recipients and subjects of subpoenas, search warrants, or other processes as sources of records maintained in the system. Finally, this section has been updated to indicate that information may also be obtained from other persons or entities from which information is obtained under a routine use.

The section entitled "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES," has been modified, as described below.

The Department modified routine use (1), entitled "Disclosure for Use by Other Law Enforcement Agencies," to align it with language used by the Department to permit disclosures of records for the same purpose in the system

of records notice entitled "The Office of Inspector General Data Analytics System (ODAS)" (18-10-02).

The Department modified routine use (3), previously entitled "Disclosure for Use in Employment, Employee Benefit, Security Clearance, and Contracting Decisions," to standardize it with other language used by the Department to permit disclosures of records in Department systems of records.

The Department modified routine use (4), previously entitled "Disclosure to Public and Private Sources in Connection with the Higher Education Act of 1965, as Amended (HEA)," to change the word "Sources" in the title to "Entities" to more accurately reflect that this disclosure is to entities participating in programs authorized by the HEA.

The Department modified routine use (5), previously entitled "Litigation Disclosure," to standardize it with other language used by the Department to permit disclosures of records in Department systems in the context of judicial and administrative litigation and alternative dispute resolution.

The Department modified routine use (6), previously entitled "Disclosure to Contractors and Consultants," to remove "consultants" from the title and to remove the reference to "Privacy Act safeguards, as required under 5 U.S.C. 552a(m)" to now require that all contractors agree



to establish and maintain safeguards to protect the security and confidentiality of the disclosed records. The Department is also removing language that indicated that the Department would require these safeguards "before entering into such a contract" to instead indicate that they will be included "as part of such a contract."

The Department modified routine use (9), entitled "Congressional Member Disclosure," to standardize it with other language used by the Department to permit disclosures of records to a congressional member in response to inquiries from such member made at the written request of the individual whose records are being disclosed.

The Department modified routine use (14), entitled "Disclosure to Federal Entities Responsible for Oversight of Federal Funds," to remove obsolete references to the former Recovery Accountability and Transparency Board (RATB), and any successor entity, and the Government Accountability and Transparency Board (GATB), and any successor entity, and state, local, and foreign agencies; and, to add disclosures to Federal boards responsible for coordinating and conducting oversight of Federal funds or for assisting in the enforcement, investigation, prosecution, or oversight of violations of administrative, civil, or criminal law or regulation.

Pursuant to the requirements in OMB Memorandum M-17-12 entitled "Preparing for and Responding to a Breach of

Personally Identifiable Information," the OIG added an additional routine use (16) to permit the Department to disclose records from this system of records in the course of assisting another Federal agency or entity in responding to a breach of personally identifiable information, as well as modified routine use (15), permitting the Department to disclose records from this system of records in responding to a breach of personally identifiable information in this system of records.

The Department added routine use (17), entitled "Whistleblower Reprisal Disclosure," to permit the OIG to disclose records in this system of records not only to a complainant alleging whistleblower reprisal, but also to a public or private entity that employs or employed a complainant and that, at the time of the alleged reprisal, was a contractor, subcontractor, grantee, or subgrantee of the Department, to the extent necessary to fulfill the whistleblower reprisal investigation reporting requirements of 41 U.S.C. 4712(b)(1), or any other whistleblower reprisal law that requires disclosure to a complainant or to an entity covered by the whistleblower reprisal law that employs or employed the complainant.

The Department added routine use (18), entitled "Fraud Awareness and Prevention Disclosure," to permit the OIG to disclose records to participants in Department programs and any public or private agency responsible for oversight of

the participants in order to conduct activities authorized by Section 4(a)(3) of the Inspector General Act of 1978, as amended, to prevent and detect fraud and abuse in the programs and operations of the Department, including fraud awareness and detection training.

The Department added routine use (19), entitled "Victim Assistance," to permit the OIG to provide complainants, victims, or alleged victims with information and explanations about the progress or results of the investigation or case arising from the matters about which they complained and/or in which they may have been a victim.

The Department added routine use (20), entitled "Disclosure to Former Employees Pursuant to 5 U.S.C. 3322," to permit the OIG to disclose records to a former employee of the Department who resigns from Federal service prior to the resolution of a personnel investigation in order to fulfill the personnel record notation requirements of 5 U.S.C. 3322.

The Department modified the section entitled "POLICIES AND PRACTICES FOR STORAGE OF RECORDS" to remove reference to bar-lock file cabinets and replace it with a description of the current storage method in safes and cabinets in secured rooms.

The Department modified the section entitled "POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS" to

specify the current applicable Department records and disposition schedules covering records in this system.

The Department modified the section entitled "ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS" to include additional details on physical security, storage, and access to electronic records.

The Department also added a section entitled "HISTORY," as required by OMB Circular A-108, entitled "Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act."

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat

Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

---

Sandra D. Bruce,  
*Deputy Inspector General delegated  
the duties of Inspector General.*

For the reasons discussed in the preamble, the Inspector General, U.S. Department of Education (Department), publishes a notice of a rescindment of a system of records and a notice of a modified system of records to read as follows:

RESCINDED SYSTEM NAME AND NUMBER:

Hotline Complaint Files of the Inspector General (18-10-04).

HISTORY:

The system of records notice entitled "Hotline Complaint Files of the Inspector General" (18-10-04) was published in the *Federal Register* on June 4, 1999 (64 FR 30157-30159), corrected on December 27, 1999 (64 FR 72407), and most recently altered on July 12, 2010 (75 FR 39669-39671).

MODIFIED SYSTEM NAME AND NUMBER:

Investigative Files of the Inspector General (18-10-01).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Inspector General, U.S. Department of Education, 550 12<sup>th</sup> Street SW, Potomac Center Plaza, Washington, DC 20202-1510.

AINS, 44470 Chillum Place, Ashburn, VA 20147 (Primary Datacenter), and 1905 Lunt Avenue, Elk Grove, IL 60007

(Alternate Site).

SYSTEM MANAGER(S):

Assistant Inspector General for Investigation  
Services, Office of Inspector General, U.S. Department of  
Education, 550 12<sup>th</sup> Street, SW, Potomac Center Plaza,  
Washington, DC 20202-1510.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended, (5  
U.S.C. Appendix).

PURPOSE(S) OF THE SYSTEM:

Pursuant to the Inspector General Act of 1978, as  
amended, the system is maintained for the purposes of: (1)  
conducting and documenting investigations by the Office of  
Inspector General (OIG) or other investigative agencies  
regarding Department programs and operations and reporting  
the results of investigations to other Federal agencies,  
other public authorities or professional organizations that  
have the authority to bring criminal prosecutions or civil  
or administrative actions, or to impose other disciplinary  
sanctions; (2) documenting the outcome of OIG  
investigations; (3) maintaining a record of the activities  
that were the subject of investigations; (4) reporting  
investigative findings for use in operating and evaluating  
Department programs or operations and in the imposition of  
civil or administrative sanctions; (5) maintaining a record  
of complaints and allegations received relative to

Department of Education programs and operations and documenting the outcome of OIG reviews and disposition of those complaints and allegations; (6) coordinating relationships with other Federal agencies, State and local governmental agencies, and nongovernmental entities in matters relating to the statutory responsibilities of the OIG and reporting to such entities on government-wide efforts pursuant to the oversight of Federal funds; (7) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act of 1978, as amended, 5 U.S.C. Appendix; (8) reporting on OIG activities to the Council of Inspectors General for Integrity and Efficiency (CIGIE); (9) participating in the investigative qualitative assessment review process requirements of the Homeland Security Act of 2002 (Pub. L. 107-296); and, (10) conducting activities to prevent and detect fraud and abuse in the programs and operations of the Department, including fraud awareness and detection training.

#### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by the system include subjects or targets of investigations, witnesses, complainants, victims, current and former employees of the Department and the OIG, and individuals who have any relationship to financial assistance or other educational programs administered by the Department, or to management



concerns of the Department, including but not limited to grantees, subgrantees, contractors, subcontractors, program participants, recipients of Federal funds or federally insured funds, and officers, employees, or agents of institutional recipients or program participants.

Complainants, witnesses, and subjects include individuals who are sources of information or have made complaints to the OIG Hotline, individuals who allegedly have knowledge regarding wrongdoing affecting the programs and operations of the Department, and individuals about whom complaints and allegations have been made.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records maintained in the system include investigation and hotline complaint files pertaining to violations of criminal laws, fraud, waste, and abuse with respect to the administration of Department programs and operations, and violations of employee Standards of Conduct in 34 CFR part 73. These files will contain, but will not be limited to: electronic information including names, addresses, Social Security numbers, dates of birth, and aliases for subjects, targets, witnesses, and victims associated with investigations; reports of interview; evidence obtained by a subpoena, search warrant, or other process; investigative memoranda; requests and approvals for case openings and closings and for the use of special investigative techniques requiring approval by management;

and electronic copies of photographs, scanned documents, and electronic media such as audio and video. The system will store investigation work products, as well as all investigation results, records needed to calculate and report statistical information on investigation efforts, and other tracking information needed to identify trends, patterns, and other indicators of fraud, waste, and abuse within the Department of Education programs and operations. The system will also store records to manage government-issued property and other resources used in investigation activities.

Specific data related to complaints may also include, but is not limited to, name, address, and contact information (if available) of the complainant, the date the complaint was received, the affected program area, the nature and subject of the complaint, and any additional contacts and specific comments provided by the complainant. In addition, information on the OIG disposition of the complaint is included in the system.

#### RECORD SOURCE CATEGORIES:

Information in this system comes from Departmental and other Federal, State, and local government records; interviews of witnesses; recipients and subjects of subpoenas, search warrants or other processes; and documents and other material furnished by nongovernmental sources. Sources may include complainants and confidential

sources. Complainants may include, but are not limited to, current and former employees of the Department, employees of other Federal agencies, employees of State and local agencies, private individuals, and officers and employees of non-governmental organizations that are involved with Department programs, contracts, or funds or have knowledge about Department programs, contracts, or funds.

Information in this system also may be obtained from other persons or entities from which data is obtained under routine uses set forth below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The OIG may disclose information contained in a record in this system of records under the routine uses listed in this system of records notice without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. The OIG may make these disclosures on a case-by-case basis or, through a computerized comparison of records authorized by Section 6(j) of the Inspector General Act of 1978, as amended. As specified, disclosures may also be made by the Department.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* The OIG may disclose information from this system of records as a routine use to any Federal, State, local, foreign agency, or other public authority responsible for enforcing, investigating, prosecuting,

overseeing, or assisting in the enforcement, investigation, prosecution, or oversight of, violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, prosecutorial, or oversight responsibility of the Department or of the receiving entity.

(2) *Disclosure to Public and Private Entities to Obtain Information Relevant to Department of Education Functions and Duties.* The OIG may disclose records to public or private sources to the extent reasonably deemed necessary to obtain information from those sources relevant to an OIG investigation, audit, inspection, or other inquiry.

(3) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The OIG may disclose a record to a Federal, State, local, or foreign agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and*

*Professional Organizations.* The OIG may disclose a record to a Federal, State, local, or foreign agency, other public authority, or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(4) *Disclosure to Public and Private Entities in Connection with the Higher Education Act of 1965, as Amended (HEA).* The OIG may disclose records to facilitate compliance with program requirements to any accrediting agency that is or was recognized by the Secretary of Education pursuant to the HEA; to any educational institution or school that is or was a party to an agreement with the Secretary of Education pursuant to the HEA; to any guaranty agency that is or was a party to an agreement with the Secretary of Education pursuant to the HEA; or to any agency that is or was charged with licensing or legally authorizing the operation of any educational institution or school that was eligible, is currently eligible, or may become eligible to participate in any program of Federal student assistance authorized by the HEA.

(5) *Litigation and Alternative Dispute Resolution*

*(ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed in sub-paragraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in judicial or administrative litigation or ADR, the OIG or the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any of its components;

(ii) Any Department employee in his or her official capacity;

(iii) Any employee in his or her individual capacity where the Department of Justice (DOJ) agrees or has been requested to provide or arrange for representation for the employee; or

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States, where the Department determines that the judicial or administrative litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the OIG determines that disclosure of certain records to the DOJ is relevant and necessary to judicial or administrative litigation or

ADR, the OIG or the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the OIG determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the judicial or administrative litigation or ADR, the OIG or the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsels, Representatives, or Witnesses.* If the OIG determines that disclosure of certain records is relevant and necessary to judicial or administrative litigation or ADR, the OIG or the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(6) *Disclosure to Contractors.* If the OIG contracts with an entity to perform any function or analysis that facilitates or is relevant to an OIG investigation, audit, inspection, or other inquiry, the OIG may disclose the records to those contractors. As part of such a contract, the OIG or the Department shall require the contractor to maintain safeguards to protect the security and confidentiality of the disclosed records.

(7) *Debarment and Suspension Disclosure.* The OIG

may disclose records to another Federal agency considering suspension or debarment action if the information is relevant to the suspension or debarment action. The OIG also may disclose information to another agency to gain information in support of the Department's own debarment and suspension actions.

*(8) Disclosure to the Department of Justice (DOJ).*

The OIG may disclose information from this system of records as a routine use to the DOJ to the extent necessary for obtaining the DOJ's advice on any matter relevant to Department programs or operations.

*(9) Congressional Member Disclosure.* The OIG may disclose records to a Member of Congress in response to an inquiry from the Member made at the written request of that individual whose records are being disclosed. The Member's right to the information is no greater than the right of the individual who requested it.

*(10) Benefit Program Disclosure.* The OIG may disclose records to any Federal, State, local, or foreign agency, or other public authority, if relevant to the prevention or detection of fraud and abuse in benefit programs administered by any agency or public authority.

*(11) Overpayment Disclosure.* The OIG may disclose records to any Federal, State, local, or foreign agency, or other public authority, if relevant to the collection of debts and overpayments owed to any agency or public



authority.

(12) *Disclosure to the Council of the Inspectors General on Integrity and Efficiency (CIGIE).* The OIG may disclose records to members and employees of the CIGIE for the preparation of reports to the President and Congress on the activities of the Inspectors General.

(13) *Disclosure for Qualitative Assessment Reviews.* The OIG may disclose records to members of the CIGIE, the DOJ, the U.S. Marshals Service, or any Federal agency for the purpose of conducting qualitative assessment reviews of the investigative operations of the OIG to ensure that adequate internal safeguards and management procedures are maintained.

(14) *Disclosure to Federal Entities Responsible for Oversight of Federal Funds.* The OIG may disclose records to any Federal agency, entity, or board responsible for coordinating and conducting oversight of Federal funds, in order to prevent fraud, waste, and abuse related to Federal funds, or for assisting in the enforcement, investigation, prosecution, or oversight of violations of administrative, civil, or criminal law or regulation, if that information is relevant to any enforcement, regulatory, investigative, prosecutorial, or oversight responsibility of the Department or of the receiving entity.

(15) *Disclosure in the Course of Responding to Breach of Data.* The OIG may disclose records from this

system to appropriate agencies, entities, and persons when: (a) the OIG or the Department suspects or has confirmed that there has been a breach of the system of records; (b) the OIG or the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the OIG or the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(16) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The OIG may disclose records from this system to another Federal agency or Federal entity, when the OIG or the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal government, or national security, resulting from a suspected or confirmed breach.

(17) *Whistleblower Reprisal Disclosure.* The OIG

may disclose records to a complainant alleging whistleblower reprisal, or to a public or private entity that employs or employed the complainant and that, at the time of the alleged reprisal, was a grantee, subgrantee, contractor, or subcontractor of the Department to the extent necessary to fulfill the whistleblower reprisal investigation reporting requirements of 41 U.S.C § 4712(b) (1), or any other whistleblower reprisal law requiring a disclosure to a complainant or to a public or private entity that employs or employed the complainant.

(18) *Fraud Awareness and Prevention Disclosure.*

The OIG may disclose records to participants in programs of the Department and any public or private agency responsible for oversight of the participants in order to conduct activities authorized by Section 4(a) (3) of the Inspector General Act of 1978, as amended, to prevent and detect fraud and abuse in the programs and operations of the Department, including fraud awareness and detection training.

(19) *Victim Assistance.* A record from the system of records may be disclosed to complainants, victims, or alleged victims to provide such persons with information and explanations concerning the progress or results of the investigation or case arising from the matters about which they complained and/or in which they may have been a victim.

(20) *Disclosure to Former Employees Pursuant to 5 U.S.C. 3322.* The OIG may disclose records to a former employee of the Department when an adverse finding is made after the employee, who was the subject of a personnel investigation, resigned from Federal service prior to the resolution of a personnel investigation to the extent necessary to fulfill the requirements of 5 U.S.C. 3322. Pursuant to 5 U.S.C. 3322, the Department must make a permanent notation in the employee's official personnel record file after providing notice of the adverse finding and any supporting documentation.

#### POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic records are stored on a Web-based computer system with security requirements as required by law. Hard-copy records are maintained in secure rooms, in security-type safes, or in secure cabinets, all in restricted access space.

#### POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The records are retrieved by manual or computer search of alphabetical indices or cross-indices. Indices list names, Social Security numbers, dates of birth, and other personal information of individuals. Indices also list names of companies and organizations.

#### POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Investigative files are retained and disposed of in

accordance with ED Records Schedule 218, "Investigation Records of the Inspector General" (N1-441-02-1, Items 2a, 2b, and 2c). Investigative files developed during investigations of known or alleged fraud, abuse, and irregularities or violations of laws and regulations are destroyed 10 years after cut off. Investigative files not relating to a specific investigation are destroyed 5 years after cut off. ("Cut off" occurs at the end of the fiscal year in which the case is closed.)

Hotline complaint files are retained and disposed of in accordance with ED Records Schedule 217, "Hotline Records of the Inspector General" (N1-441-02-1, Items 3a, 3b, and 3c). Hotline complaint files are destroyed 5 years after cut off. ("Cut off" occurs at the end of the fiscal year in which the complaint is resolved.)

#### ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is limited to authorized personnel only. All physical access to the Department's sites, and to the sites of the Department's contractor (Primary Datacenter) and subcontractor (Alternate Site), where this system of records is maintained, is controlled and monitored by security personnel.

Electronic records are maintained on computer databases that are compliant with FedRAMP baseline security controls as described in the System Security Plan required by FedRAMP to meet the Federal Information Security

Modernization Act (FISMA) compliance mandate. All security for the system is maintained in accordance with Moderate data sensitivity controls. An individual's ability to access and alter the records is limited to a "need to know" basis and authorized log-on codes and passwords prevent unauthorized users from gaining access to data and system resources.

Hard copy records are maintained in secure rooms, in security-type safes, or in secure cabinets, all in restricted access spaces.

#### RECORD ACCESS PROCEDURES:

See "EXEMPTIONS PROMULGATED FOR THE SYSTEM." As provided in 34 CFR 5b.11(b)(3), (c)(1)(ii), and (f), the record access procedures are not applicable to criminal investigative files except at the discretion of the Inspector General. To the extent that the procedures may apply to criminal investigative files, they are subject to the conditions set forth at 34 CFR 5b.11(b)(3). The record access procedures are applicable to non-criminal investigative files subject to the conditions set forth at 34 CFR 5b.11(c)(1)(ii) and (f).

#### CONTESTING RECORD PROCEDURES:

See "EXEMPTIONS PROMULGATED FOR THE SYSTEM." As provided in 34 CFR 5b.11(b)(3) and (c)(1)(ii), the procedures for correction or amendment of records are not applicable to criminal and non-criminal investigative

files.

#### RECORD ACCESS PROCEDURES:

See "EXEMPTIONS PROMULGATED FOR THE SYSTEM." As provided in 34 CFR 5b.11(b)(3), (c)(1)(ii), and (f), the record access procedures are not applicable to criminal investigative files except at the discretion of the Inspector General. To the extent that the procedures may apply to criminal investigative files, they are subject to the conditions set forth at 34 CFR 5b.11(b)(3). The record access procedures are applicable to non-criminal investigative files subject to the conditions set forth at 34 CFR 5b.11(c)(1)(ii) and (f).

#### CONTESTING RECORD PROCEDURES:

See "EXEMPTIONS PROMULGATED FOR THE SYSTEM." As provided in 34 CFR 5b.11(b)(3) and (c)(1)(ii), the procedures for correction or amendment of records are not applicable to criminal and non-criminal investigative files.

#### NOTIFICATION PROCEDURES:

See "EXEMPTIONS PROMULGATED FOR THE SYSTEM." As provided in 34 CFR 5b.11(b)(3), (c)(1)(ii), and (f), the notification procedures are not applicable to criminal investigative files except at the discretion of the Inspector General. To the extent that the procedures may apply to criminal investigative files, they are subject to the conditions set forth at 34 CFR 5b.11(b)(3). The

notification procedures are applicable to non-criminal investigative files subject to the conditions set forth at 34 CFR 5b.11(c) (1) (ii) and (f).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to the general authority in the Privacy Act in 5 U.S.C. 552a(j) (2) (criminal investigative/enforcement files), the Secretary of Education has by regulations exempted the "Investigative Files of the Inspector General" system of records from the following subsections of the Privacy Act:

5 U.S.C. 552a(c) (3)—access to accounting of disclosure.

5 U.S.C. 552a(c) (4)—notification to outside parties and agencies of correction or notation of dispute made in accordance with 5 U.S.C. 552a(d).

5 U.S.C. 552a(d) (1) through (4) and (f)—procedures for notification or access to, and correction or amendment of, records.

5 U.S.C. 552a(e) (1)—maintenance of only relevant and necessary information.

5 U.S.C. 552a(e) (2)—collection of information from the subject individual to the greatest extent practicable.

5 U.S.C. 552a(e) (3)—notice to an individual who is asked to provide information to the Department.

5 U.S.C. 552a(e) (4) (G) and (H)—inclusion of information in the system of records notice regarding



Department procedures on notification of, access to, correction of, or amendment of records.

5 U.S.C. 552a(e) (5)—maintenance of records with requisite accuracy, relevance, timeliness, and completeness.

5 U.S.C. 552a(e) (8)—service of notice on individual if a record is made available under compulsory legal process if that process becomes a matter of public record.

5 U.S.C. 552a(g)—civil remedies for violation of the Privacy Act.

Pursuant to the general authority in the Privacy Act in 5 U.S.C. 552a(k) (2) (civil investigative files), the Secretary of Education has by regulations exempted the "Investigative Files of the Inspector General" system of records from the following subsections of the Privacy Act:

5 U.S.C. 552a(c) (3)—access to accounting of disclosure.

5 U.S.C. 552a(d) (1) through (4) and (f)—procedures for notification or access to, and correction or amendment of, records.

5 U.S.C. 552a(e) (1)—maintenance of only relevant and necessary information.

5 U.S.C. 552a(e) (4) (G) and (H)—inclusion of information in the system of records notice regarding Department procedures on notification of, access to, correction of, or amendment of records.

These exemptions are stated in 34 CFR

5b.11.

HISTORY:

The system of records notice entitled "Investigative Files of the Inspector General" (18-10-01) was published in full in the *Federal Register* on June 4, 1999 (64 FR 30151-30153), corrected on December 27, 1999 (64 FR 72406), corrected on January 30, 2002 (67 FR 4415-4417), altered on June 26, 2003 (68 FR 38153-38158), altered on June 14, 2010 (75 FR 33608-33610), and most recently altered on August 20, 2012 (77 FR 50091-50092).

Appendix to 18-10-01

Additional System Locations:

Office of Inspector General, U.S. Department of Education, 2700 N. Central, Suite 300, Phoenix, AZ 85004.

Office of Inspector General, U.S. Department of Education, One World Trade Center, Suite 2300, Long Beach, CA 90831-0023.

Office of Inspector General, U.S. Department of Education, Cesar E. Chavez Memorial Building, 1244 Speer Boulevard, Suite 604A, Denver, CO 80204-3582.

Office of Inspector General, U.S. Department of Education, 9050 Pines Blvd, Suite 270, Pembroke Pines, FL 33024.

Office of Inspector General, U.S. Department of Education, Atlanta Federal Center, 61 Forsyth Street, Room 19T71, Atlanta, GA 30303-3104.

Office of Inspector General, U.S. Department of Education, 230 S. Dearborn Street, Suite 3964, Chicago, IL 60604.

Office of Inspector General, U.S. Department of Education, J.W. McCormack Post Office and Courthouse, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109.

Office of Inspector General, U.S. Department of Education, 339 East Liberty Street, Suite 310, Ann Arbor, MI 48104.

Office of Inspector General, U.S. Department of Education, 1010 Walnut Street, Suite 410, Kansas City, MO

64104.

Office of Inspector General, U.S. Department of Education, 32 Old Slip, 26th Floor, New York, NY 10005-2500.

Office of Inspector General, U.S. Department of Education, The Wanamaker Building, 100 Penn Square East, Suite 502, Philadelphia, PA 19107-3323.

Office of Inspector General, U.S. Department of Education, 1000 Liberty Avenue, Room 1503, Pittsburgh, PA 15222-4004.

Office of Inspector General, U.S. Department of Education, Federal Building and Courthouse, 150 Carlos Chardón Street, Room 747, San Juan, PR 00918-1721.

Office of Inspector General, U.S. Department of Education, 350 Carlos Chardón Street, Suite 235, San Juan, PR 00918.

Office of Inspector General, U.S. Department of Education, 801 Broadway, Suite C 362, Nashville, TN 37203.

Office of Inspector General, U.S. Department of Education, 1201 Elm Street, Suite 1090, Dallas, TX 75270.